

EXHIBIT A

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Commonwealth of Puerto Rico
Department of the Treasury]

Commonwealth of Puerto Rico
Treasury Department
Internal Revenue Area
CONSUMPTION TAX BUREAU

MEMORANDUM

IMPOSITION OF TAX ON NEW VEHICLES FOR SALE

**Re-establishment of the provisions of Article 2011(c)(2)-1 of Regulation
No. 7437 of December 14, 2007**

I. Legal Basis

Section 3010.01(a)(2) of the 2011 Puerto Rico Internal Revenue Code, as amended, (the "Code") establishes the basis to determine the "Cost in Puerto Rico" for Importers and Manufacturers of motor vehicles. However, it establishes, in its subsection (C), that the Secretary may determine the "taxable price in Puerto Rico", in accordance with the method that reflects the value or price of the goods subject to taxation, when he/she deems that the documents needed to establish the "cost in Puerto Rico" are not authentic, are insufficient or inadequate for such purpose; or when, on the basis of the documents submitted by the taxpayer to establish the "cost in Puerto Rico", it differs considerably from the "cost in Puerto Rico" for similar goods; or when no rule is prescribed in the Code to determine the "cost in Puerto Rico" of the goods.

As a general rule, pursuant to Section 3010.01(10) of the Code, the "taxable price in Puerto Rico" means the "cost in Puerto Rico" plus twenty (20) percent of said cost, except in the cases of buses, propellers, trucks, and vehicles. For motor vehicles in particular, this Section provides that the taxable price in Puerto Rico shall be the *suggested consumer sales price*. In the case of *new automobiles* introduced from abroad by distributors and authorized dealers, the "suggested consumer sales price" shall mean the basic cost of the automobile model, including the optional factory-installed equipment, plus the insurance and import freight, the estimated sales profit margin, and the costs associated with the preparation and delivery of the vehicle, and will be determined in accordance with the provisions of Section 3020.08(c) prior to introducing the vehicle to Puerto Rico.

On the other hand, Article 2011(c)(2)-1 of Regulation 7437 of December 14, 2007 (the "Regulation") provides that In the case that the suggested consumer sales price reported by a specific importer does not reasonably reflect the suggested consumer sales price of similar models at the time of the vehicle's introduction to Puerto Rico, the Secretary shall determine and collect from this importer the re-determined tax, using as reference any other source of information that is duly recognized by the automotive industry.

For purposes of this Article, a vehicle will not reasonably reflect the suggested consumer sales price when said price is substantially lower than the suggested consumer sales price for similar models. Additionally, it may be considered unreasonable when, as of the date of introduction, the suggested consumer sales price strays more than *5 percent (5%) from the suggested sales price for that same vehicle according to the corresponding Black Book edition*.

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Margot A. Acevedo Chabert
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However, in no case shall it be understood that this power authorizes the Secretary to substitute, as a general applicable rule, the suggested consumer sales price basis for any other alternative fiscal base, except to correct the suggested consumer sales price unreasonably determined by the importer in each particular case.

II. Application of the provisions of Article 2011(c)(2)-1 of the Regulation in the process of granting releases

The Consumption Tax Bureau, through its Imposition Division, is in charge of developing, administrating, and evaluating the procedures, functions, and activities needed to carry out the appropriate imposition of excise taxes. After an evaluation of the current processes for the imposition of excise taxes in the case of motor vehicles, it was identified that the Imposition Division has not been consistently applying the provisions of Article 2011(c)(2)-1 of the Regulation and the corresponding Sections of the Code discussed in this Memorandum.

Since the legal basis for determining the taxable price in Puerto Rico of new vehicles for sale is clear and leaves no room for interpretation, compliance with the applicable provisions of law is necessary. To those effects, **all of the personnel of the Imposition Division of the Consumption Tax Bureau is instructed to apply the provisions of Article 2011(c)(2)-1 in those cases where the suggested consumer sales price informed by an importer strays more than 5 percent (5%) from the suggested sales price for that same vehicle according to the corresponding Black Book edition.**

This instruction must be applied immediately.

Cordially,
[signed]
Myrna Y. Medina Massanet, Esq.
Director

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